

#83

INTRODUCTION

The City of Austin enjoys the benefits of having interested and community-minded citizens with a strong desire to contribute to their city. There are fifty-five (55) volunteer bodies that meet regularly. There are more than 450 dedicated citizens committed to increasing citizen input in the decision making process.

In April, 2007 the City Council passed a resolution identifying how vital the boards and commissions system is to the form of government in Austin. Because of the size and importance of this system, Council declared it is imperative that the resources allocated be expended in the "most effective and prudent ways possible." The City Manager was directed to review the system and make recommendations for improvements based on a Boards and Commissions Task Force report completed in 2003. This Task Force was appointed in 2001 and directed to survey board members to assess issues and areas of concern. The survey, consisting of eighty (80) questions, was mailed to 455 current board members and 348 previous members. Thirty-six (36%) percent of the members responded. Many of the Task Force recommendations and the staff's recommendations below are based on the survey feedback.

Some of the problems identified in the Task Force report were:

1. Because there are no standards for creating boards, the system has become complex and confusing. The lack of transparency contributes to public misconceptions. This confusion may limit the pool of citizens volunteering to serve. One out of every three positions is now vacant and often there are no applicants willing to fill the vacant positions. All of the following are addressed in this report with a goal of standardizing where possible:
 - a. Names of the various bodies
 - b. Size and quorum
 - c. Member qualifications
 - d. Staff support
 - e. Eligibility of members
 - f. Terms
 - g. Financial reporting and conflict of interest
 - h. Attendance requirements
 - i. Bylaws
 - j. Meeting Requirements
2. The review process outlined in the Code is not used. To ensure boards are performing in the most effective way and remain focused on their mission, there needs to be some type of review.
3. Board members want and need training. Staff members who support the boards need training.

This report highlights staff's recommendations to create a more efficient and effective board structure for Austin based on Task Force recommendations and direction from Council offices. Unless otherwise noted below, each of these recommendations can be completed when the ordinance is adopted at no additional cost.

1. STANDARDIZATION OF BOARDS

A. NAMING

Current

There is no definition or criteria for these Council-appointed bodies. Current names in the Code include board, commission, consortium, council, authority, and agency. Most exist primarily to advise council although some bodies are sovereign (their decisions cannot be overturned by the council) and some are appellate (hearing appeals to rulings or action made by city officials).

Proposed

Staff is recommending the following definitions be approved

- A board would mean a permanent advisory or decision making body having a life of more than 3 years that is established by charter, ordinance, or Council-approved agreement. In the draft ordinance, the word “board” designates all permanent bodies listed in Article 2, regardless of their official name
- A task force would mean a non-codified temporary advisory body established by the City Council by ordinance or resolution for a specific purpose that expires upon the completion of its assigned task or according to a specified deadline
- A list of all bodies (to which Council appoints citizens) that are not included in Article 2 will be maintained by the City Clerk

B SIZE AND QUORUM OF BOARDS

Current

Most boards have nine or more members. There are federal or state regulations setting the size of certain boards that cannot be changed. Exhibit A shows all boards and their proposed composition and identifies which boards can not be reduced or increased. Council wants to change the current makeup to 7 members to eliminate “consensus” appointments. Quorums are inconsistent and cause confusion for board members.

Proposed

Staff proposes to implement the following changes

- A board will consist of seven (7) members, unless state or federal regulations or City Charter prevail or for other reasons stated on the attached spreadsheet
- On seven (7) member boards, each Council office will nominate one member. Council will appoint the members by a majority vote
- On any board required to be more or less than seven (7) members, the Mayor will nominate positions subject to confirmation by Council
- A majority of the total number of authorized board members constitutes a quorum for the conduct of business. For a seven (7) member board, four board members constitute a quorum
- Board action must be adopted by an affirmative vote of the number of members necessary to provide a quorum. For example, if there are three (3) vacancies and only four (4) members, the item would have to pass unanimously

C MEMBER QUALIFICATIONS

Current

There are a variety of qualifications required for certain board positions. Many vacancies are the result of Council offices not being able to find a citizen who meets the specific qualification and is willing to serve.

Proposed

Except where stated otherwise required by federal or state law or City Charter, the board composition and membership qualifications will be directory and not mandatory. While Council will attempt to fill the positions as specified, the primary goal will be to make sure the positions are filled so the board can have a quorum to conduct business and fulfill their mission.

D STAFF LIAISON AND SUPPORT

Current

There are inconsistent provisions requiring staff support for a board. Eighty (80%) percent of the survey respondents felt a staff member was the appropriate person to take the minutes.

Proposed

The City Manager will be required to appoint an executive level staff person that will be called a "liaison" to support each body that is created. The department director will appoint an administrative staff person to help prepare agendas, post meeting notices, maintain minutes and keep attendance records for board members.

E. ELIGIBILITY OF MEMBERS

Current

A board member must be a resident of the City, unless exempted by state or federal law or by ordinance. A person may not serve on more than one City-established board simultaneously, except as a representative of another board or as required by federal or state law or City ordinance. A person who is registered or is required to register as a lobbyist under Chapter 4-8 or who is employed by a person registered or required to register under that chapter is not eligible for appointment to a board. No board member is allowed to vote until they have filed an oath of office with the City Clerk.

Proposed

Staff proposes to retain all of the above and add the following eligibility requirements:

- Citizens appointed to a board must complete a written application and have it on file with the City Clerk.
- After a person is appointed to a board or commission, the person is not eligible to begin service until the person has signed a written acknowledgement stating the person has received a copy of the City's ethics and personal responsibility guidelines and has taken the oath of office.
- Appointees must agree to complete the required initial training within ninety (90) days of appointment.

F. LENGTH OF TERMS AND TERM LIMITS

Current

Different boards and commissions have different term lengths. Of the fifty-five (55) boards and commissions, one (1) board has a term of four (4) years, three (3) have three (3) years and the rest are two (2) years. Currently members whose terms expire are allowed to serve indefinitely even though they are not reappointed. This occurs either because they don't reapply or Council may not reappoint the member but doesn't appoint a new member. The current system does not tie a board member's term to a Council Member's term so a new Council Member may not be allowed to appoint any board members for months or years after taking office. Currently, no term limits are imposed.

Proposed

Staff proposes standardizing length of terms, establishing term limits and connecting Council Members to their appointees with the following changes:

- Board members would be appointed for a term of three (3) years, except where state or federal regulations or City Charter prevail. The term of office for each board member would run concurrently with the term of office for the Council Member that makes the appointment.
- All board members would be limited to serving no more than nine (9) consecutive years on the same board. Members can be reappointed to that board after sitting out two (2) years. The board member may be appointed to a different board without a two year absence. With the passage of this ordinance, all service years for current members will be reduced to zero and the nine (9) year term limit will begin.
- All Council Members elected in May, 2008, will be required to make new appointments or reappoint existing members. In May, 2009, the same thing will occur when the remaining Council Members are elected. By May, 2009, the transition to seven (7) will be completed without asking any board member to resign. Terms will start August 1st giving newly elected Council Member time to complete the appointments.

- A member whose term expires may continue to serve for no more than sixty (60) days or until the position has been refilled, whichever is shorter
- A member who becomes ineligible to serve may not continue to serve even if a successor has not been appointed

G FINANCIAL REPORTING AND CONFLICT OF INTEREST

Current

Per State law, a board member may not participate in a vote on a matter affecting a person, entity, or property in which he/she has a substantial interest. The Code says board members are subject to the City ethics and financial disclosure regulations. Most board and commission members are required to submit a personal financial report. Only ninety-two (92) members have filed their statement of financial information for the reporting period (January 1, 2006-December 31, 2006). While this was intended to protect the city from conflict of interest by board members who potentially were voting on recommendations that would benefit them personally, there have been no consequences for failure to file. There are inconsistencies in how a declaration of a conflict is handled by different boards.

Proposed

Staff recommends limiting financial reporting requirements to those boards that have authority to review City contracts or are involved in land development activities including the Zoning and Platting Commission, Planning Commission, Solid Waste Advisory Commission, Environmental Board and Water and Wastewater Commission, Arts Commission, Board of Adjustment, Historic Landmark, Housing Authority, Parks and Recreation, and the Urban Renewal Agency.

In addition, staff is recommending a board member sign an attendance sheet at each meeting that will indicate

- The board member has no conflict of interest related to any item on the agenda or
- The number of an agenda item(s) for which the board member has a conflict of interest

A board member who has a conflict of interest shall

- File a conflict of interest statement with the staff prior to the board taking action on the item
- Recuse him/herself from any discussion of the agenda item on which there is a conflict, and
- Leave the meeting room during any discussion, deliberation or action involving the conflict

This process will be explained in the training for board members and staff. The City Clerk will be responsible for keeping the completed conflict forms on file. The Law Department will draft the attendance sheet to include language about the declaration of conflicts and the conflict of interest statement.

H ATTENDANCE REQUIREMENTS

Current

The code says a board member is not allowed to miss three (3) consecutive regular meetings or one-third of the regular meetings in a calendar year. However, members who violate the attendance policy are allowed to continue service because the attendance policy has not been enforced. Fourteen (14%) percent of the survey respondents indicated that vacancies made it hard to conduct business. Sixteen (16%) percent reported that some items had to be postponed due to absences. A board-by-board analysis indicates that about a dozen boards were experiencing vacancy-related problems at the time of the survey. Eight-five (85%) percent of the members felt the current attendance policy was about right. However, only thirty-two (32%) percent felt the current policy was being enforced.

Proposed

Staff is recommending the current attendance policy be maintained and enforced. It would not apply if the member notifies the staff, in writing of the reason for the absence, if the reason was an illness or injury that made it impossible for him/her to attend. The staff liaison will notify the City Clerk if a board member fails

to comply with the attendance policy. The City Clerk will notify the nominating Council office that a new appointment will be needed.

I BYLAWS

Current

Of the fifty-five (55) boards, only twenty-seven (27) have adopted bylaws. Some of these bylaws let the board or commission review matters that are outside the scope of their charge and give the chair the authority to set the agenda. The Code is silent on the creation of subcommittees but some bylaws allow them. Eighty-two (82%) percent of the survey respondents felt it was very important or somewhat important to set up temporary committees or work groups to study specific issues. Without bylaws, boards may not be clear on important issues like appointment of officers, annual review requirements, and creation of subcommittees.

Proposed

Staff created a standard set of bylaws that is attached for your review (Exhibit B). These bylaws include the following:

- The board shall annually select from its membership a chair and any additional officers they need. The bylaws outline the duties of each officer. They require elections will be held at the last regular meeting of the preceding calendar year.
- The chair may not serve for more than two consecutive years.
- A board may establish standing committees from its membership to conduct their business. Each standing subcommittee shall be named and their responsibilities described in the board's bylaws.
- The board shall follow guidelines for posting meetings and use Robert's Rules of Order.
- The bylaws outline the process for an annual review, if the board is required to participate.

Staff recommends all boards adopt the standard set of bylaws within forty-five (45) days from passage of this ordinance. Bylaws will be written by staff and presented to the board for adoption. Any desired changes and amendments would go to the Council Audit and Finance Committee for approval.

J MEETING REQUIREMENTS

Current

- Most boards meet on a regular basis and comply with the Open Meetings Act. However, there are times when meetings occur and a quorum is not present. There are times when items not on a posted agenda are discussed and when citizens want to give input on non-agenda items and are denied that opportunity.
- There is no penalty if a board doesn't meet regularly.
- Boards may not conduct a closed meeting without the prior and written approval of the City Attorney.
- There is inconsistency concerning minute taking at board meetings.

Proposed

Staff recommends:

- Each agenda provide time for general citizen communication,
- Staff should prepare action minutes of each board meeting (unless there is a compelling business need to do more extensive minutes). Preparation of minutes will be included in the staff training. The minutes shall
 - list the members in attendance
 - state the subject of each deliberation
 - indicate each vote, order, decision or other action taken,
- Each board will meet at least quarterly. The City department assigned to provide staff support shall notify the City Clerk if a board fails to post notice of or fails to conduct a meeting for a period of

three (3) months The City Clerk will notify the Council Audit and Finance Committee regarding the board's failure to conduct a meeting

- Boards may not conduct a closed meeting without the prior and written approval of the City Attorney

2 ANNUAL REVIEW

Current

All boards and commissions are required to submit a summary report of their activities for the previous year and a work plan for the upcoming year and file it with the City Clerk Many boards do not complete these reports and the reports have not been used to evaluate the effectiveness of the board Even though the code defines a process for Council review of boards to determine if they are continuing to serve their intended purpose, operating within the scope of the ordinance that created them and are complying with filing of financial disclosure reports, work plans and annual reports, the review process has not been used

Proposed

Staff is proposing a three tiered review process that ensures boards are functioning efficiently and effectively

- 1 The Council Audit and Finance Committee will annually determine which boards will be required to participate in a review process Required boards will complete a self assessment and prepare an Annual Report at one of their regular meetings during the first quarter of the calendar year Not all boards will be involved – especially those that have specific assignments like the appeals boards

The Annual Report will have two parts The work plan will include goals and objectives for the next plan year focused on long-range strategic issues, proposed activities to achieve the board's goals and objectives, any request for revisions to the board's bylaws, rules, procedures or mission statement The annual review portion will include a summary of the board's activities for the previous year, including goals and objectives achieved, posted agendas for each board meeting held during the previous year, approved minutes for each meeting, each resolution or written recommendation sent to the City Council, a recommendation that the board should continue operation, be dissolved, or have its assigned duties and responsibilities modified, or transfer the board's functions to another board,

The staff liaison will have the discretion of using a facilitator or conducting the review him/herself The board should self assess their actions during the previous year to determine if they were in compliance with their mission statement and the goals and objectives described in their previous work plan They should invite public input and record those comments Staff should be solicited for their feedback and their comments recorded Staff will present the department's annual budget and business plan prior to the review so the work plan coincides with the department's goals

- 2 Each Council office will review the reports generated during these annual reviews and if a problem is noted, it will be referred to the Council Audit and Finance Committee for inclusion in the City Auditor's service plan
- 3 Upon completion of a board audit, the City Auditor will present the results to the Council Audit and Finance Committee who will schedule further review The review will consist of a written or oral presentation from the board chair and citizens on the board's performance After the review, the Committee shall make a recommendation to Council to continue, modify or dissolve the board

3 REQUIRED TRAINING

Current

- Eighty-three (83%) percent of board members surveyed agreed that training, perhaps in the form of an orientation session, would help them provide better advice to the Council and better value to the public. Ninety-five (95%) percent of board members agreed that requiring attendance at such training would not discourage them from board service.
- The City requires all boards and commissions to comply with Chapter 551 (Open Meetings Act) of the Texas Government Code. Individuals are required to view a one hour video conducted by the Attorney General's office on Open Meetings. A member is required to take the training at least once. The training video covers the following: general requirements for open meetings, applicability to governmental bodies, procedures and requirements for quorums, meeting notices, record-keeping (minutes), conducting an open meeting and closed meeting, and penalties/consequences for failure to comply with the Act. Once a person watches this video, they receive a certificate and turn it in to the City Clerk. Of the approximately 450 board members in Austin, only ninety-seven (97) have turned in a completion of training certificate, less than twenty-two percent (22%). There is no consequence for failure to complete the training.
- There is no formalized program to train staff members who support boards and commissions.

Proposed

- Staff proposes mandatory training for all board and commission members which includes the required AG training. All current board members would be required to complete the training within 120 days after the ordinance is approved. New members would have ninety (90) days from the date of their appointment to complete the training.
- Training will include, but is not limited to:
 - Introduction to Austin's form of government, the City's vision and values, and comprehensive planning
 - Board and commission members' roles and responsibilities
 - Business planning -- specifically the four components of the City's annual business planning and budgeting cycle
 - Ethics training on how a board or commission should conduct themselves while on a board
 - Open Meetings concerning the requirements set forth by the State
 - Robert's Rules of Order
 - Conflict management describing the causes of conflict and tips for managing conflict
- There will be a total of seven (7) training modules. Three (3) will be video presentations between thirty (30) to sixty (60) minutes in length. The other four (4) modules will be computer based training where the person listens to a narrated presentation with PowerPoint slides reinforcing main points.
- Total training time is approximately three and half (3.5) hours. The training does not have to be done all at once. The program will be set up so members can bookmark their place. As long as the member completes all modules, they can continue to serve.
- Each board and commission member will receive a study guide so they have something to refer to later.
- A very small percentage of board and commission members do not have a computer. Staff proposes training days at libraries where citizens can access the internet at no cost.
- At the end of the eighth module, the member will be presented a code. They can email, call or walk-in to the Clerk's office and present the code as proof they have completed the training.
- In order to keep each member's mind fresh with the training content, each member will be required to take a one (1) hour refresher course annually.
- The City Clerk's Office will keep a record of all board members completing this training and will notify the nominating Council office if a member is not in compliance.

- Staff who support boards and commissions would receive the same training proposed for the board members. In addition, they would be trained on their specific roles and responsibilities including how to prepare and post agendas with the Office of the City Clerk and Public Information Office, how to prepare concise but complete minutes, how to transmit board actions to the Council, when and how to report attendance problems, how to deal with a member who declares they have a conflict of interest on an agenda item, when and how annual reports should be prepared, advising the Office of the City Clerk when there are resignations, changes in address, and other related issues, and processes the board would need to follow to change their bylaws, operating procedures, meeting dates or times, or other changes.

Timeline

- Once the training content is completed, staff can upload to a web server for access by board members and staff.
- All of the modules are under development but may need to be tweaked based on the content of the final ordinance. Law will review all the modules for accuracy.
- With regard to the Open Meetings training, the City's script needs to be approved by the Texas Attorney General. Until then, staff can place a link to the AG's website to take their training.
- The HTML website involves creating a new website design for the system and securing it with a username and password.

Costs

Most of the costs are internal and covered by the existing budgets. The outsourced production costs PIO will absorb is about \$1,000 per video. This covers the talent, script review by talent for teleprompter and on-camera video shoot, as well as the hours talent is available for on-site shooting.